

United States Government

Department of Energy

# memorandum

DATE: October 4, 2001

REPLY TO:  
ATTN OF: Office of Environmental Policy and Guidance: Boulos: 6-1306

SUBJECT: INFORMATION-RECENT CLEAN AIR ACT-RELATED FEDERAL REGISTER  
NOTICES: August 2001 to September 2001

TO: Distribution

EH-412 has been routinely distributing material on Environmental Protection Agency (EPA) clean air-related Federal Register (FR) notices not otherwise transmitted to program and field offices in order to make the Departmental complex aware of information that may be of relevance to its operations. Attached are summaries of clean air-related five FR notices published during the period August 2001 to September 2001.

If you have any questions concerning these notices, please contact Mr. Emile Boulos of my staff at: [emile.boulos@eh.doe.gov](mailto:emile.boulos@eh.doe.gov); 202-586-1306.

(original was signed by Andrew Wallo)  
Andrew Wallo III  
Director  
Air, Water and Radiation Division

Attachment

## SUMMARY OF CLEAN AIR ACT- RELATED FEDERAL REGISTER (FR) NOTICES

PUBLISHED DURING THE PERIOD OF AUGUST 2001 TO SEPTEMBER 2001

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I. **FINAL RULE; REMOVAL OF PROVISIONS: 40 CFR PARTS 60, “STANDARDS OF PERFORMANCE FOR ELECTRIC UTILITY STEAM GENERATING UNITS FOR WHICH CONSTRUCTION IS COMMENCED AFTER SEPTEMBER 18, 1978; AND STANDARDS OF PERFORMANCE FOR INDUSTRIAL-COMMERCIAL-INSTITUTIONAL STEAM GENERATING UNITS”, (66 FR 42608; AUGUST 14, 2001).**

On August 14, 2001, the Environmental Protection Agency (EPA) issued a final rule in the Federal Register (66 FR 42608) to remove certain provisions of the nitrogen oxides emission standards for new electric utility steam generating units and industrial-commercial-institutional steam generating units, which were promulgated on September 16, 1998. Specifically, EPA removed the provisions of the final rules applicable to electric utility steam generating units and industrial-commercial-institutional steam generating units for which modification was commenced after July 9, 1997.

The removal of the provisions was based on the issuance of an order by the United States Court of Appeals for the District of Columbia Circuit in *Lignite Energy Council, et al., v. Environmental Protection Agency*, No. 98-1525 (and consolidated cases) on September 21, 1999, granting summary vacatur of the provisions. The EPA has determined that there is good cause for removal of these provisions without prior proposal and opportunity for comment because the changes to the rules are minor, noncontroversial in nature, and do not substantively change the requirements of the revised nitrogen oxides.

On July 9, 1997, the EPA published in the Federal Register (62 FR 36948) proposed revisions pertaining to the emission standards for nitrogen oxides contained in the standards of performance for new electric utility steam generating units and industrial-commercial-institutional steam generating units. The proposed changes reduce the numerical nitrogen oxides emission limits for both utility and industrial steam generating units to reflect the performance of best demonstrated technology. EPA has also reviewed the quarterly emission reporting requirements of the utility and industrial steam generating unit regulations contained in 40 CFR Part 60, Subpart Da and Db. The proposed changes allow owners or operators of affected facilities to meet the quarterly reporting requirements of both regulations by means of electronic reporting, in lieu of submitting written compliance reports.

On September 16, 1998 (63 FR 49553), EPA published a final rule revising the nitrogen oxides emission standards in Subpart Da and Db. Following promulgation of the final rules, a number of industry groups (Petitioners) filed petitions for review pursuant to CAA Section 307(b) in the United States Court of Appeals for the District of Columbia Circuit. In light of issues raised in the Petitioners' brief, EPA recognized that the final

rule provided an inadequate explanation of the standards as applied to modified or reconstructed boilers.

This final rule withdrawal of provisions does not affect 40 CFR Part 60, Subpart Da and Db, as they apply to the owners and operators of new and reconstructed electric utility steam generating units and industrial-commercial-institutional steam generating units on which construction or reconstruction is commenced after July 9, 1997.

**2. PROPOSED RULE; EXTENSION OF COMMENT PERIOD: 40 CFR PARTS 63, 264, 265, 266, AND 270, "STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR HAZARDOUS WASTE COMBUSTORS", (66 FR 43142; AUGUST 17, 2001).**

On August 17, 2001, the EPA extended the comment period for 60 days, on its proposed amendments to National Emission Standards for Hazardous Air Pollutants (NESHAP) for Hazardous Waste Combustors. On September 30, 1999, the NESHAP: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors was promulgated (64 FR 52828). On July 3, 2001, EPA proposed potential revisions to several compliance, testing, and monitoring provisions of the final rule (66 FR 35126). The comment period was scheduled to end on August 17, 2001. On July 24, 2001, the Court of Appeals for the District of Columbia decided on several issues related to the September 30, 1999 final rule. Considering the court decision, EPA extended the comment period on the July 3, 2001 proposed rule for 60 days.

**3. DIRECT FINAL RULE: "AMENDMENTS FOR TESTING AND MONITORING PROVISIONS; REMOVAL OF A PROVISION FOR OPACITY MONITORING", (66 FR 44978; AUGUST 27, 2001).**

On August 27, 2001, the EPA issued a direct final rule to remove an amendment published on October 17, 2001 (65 FR 61744), as part of a final rule entitled "Amendments for Testing and Monitoring Provisions". EPA removed this provision because it inadvertently established substantive new requirements for facilities that are subject to the New Source Performance Standards requiring the installation of continuous opacity monitors on effluent streams, although the amendments were explicitly intended to be minor in nature and not substantive. The removal of the amendment will reinstate the old 40 CFR Part 60 Section 60.13(g) provision which allowed subject facilities to use flow measuring techniques and flow monitors.

**4. FINAL RULE: 40 CFR PARTS 52 AND 81, "APPROVAL AND PROMULGATION OF AIR QUALITY IMPLEMENTATION PLANS; STATE OF COLORADO; DENVER 1-HOUR OZONE REDESIGNATION TO ATTAINMENT, DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES, AND APPROVAL OF RELATED REVISIONS", (66 FR 47086; SEPTEMBER 11, 2001).**

On September 11, 2001, the EPA approved the Denver 1-hour ozone redesignation request, the maintenance plan, the revisions to Colorado's Regulations No. 3 "Air Contaminant Emissions Notices" and No. 7, "Emissions of Volatile Organic Compounds", and Nitrogen Oxides transportation conformity budgets. On May 11, 2001, EPA published a notice of proposed rulemaking (NPR) in the Federal Register (66

FR 24075) that used EPA's parallel processing procedure to propose approval of the State of Colorado's request to redesignate the Denver-Boulder metropolitan (Denver) "transitional" ozone nonattainment area to attainment for the 1-hour ozone National Ambient Air Quality Standard (NAAQS). In that NPR, EPA proposed to approve the maintenance plan for the Denver area and the additional State Implementation Plan (SIP) elements involving revisions to Colorado's Regulations No. 3 and No. 7, that were previously submitted for EPA's approval, on August 8, 1996.

**5. FINAL RULE; TECHNICAL CORRECTION: 40 CFR PART 63, "NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FROM NATURAL GAS TRANSMISSION AND STORAGE FACILITIES", (66 FR 49299; SEPTEMBER 27, 2001).**

On September 27, 2001, the EPA issued a final rule to correct an error in the June 29, 2001, "National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities and National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities", (66 FR 34548).

This error correction was minor in nature and noncontroversial.

On June 17, 1999, EPA issued the national emission standards for hazardous air pollutants (NESHAP) from oil and natural gas production facilities and the national emission standards for hazardous air pollutants from natural gas transmission and storage facilities (64 FR 32610). On June 29, 2001, EPA issued a final rule to clarify intent and correct errors in these NESHAP, (66 FR 34548).

The September 29, 2001 technical correction corrects an error in the June 29, 2001 final rule. This technical correction does not change the level of health protection or the basic application of the maximum achievable control technology. Entities that will potentially be affected by this correction are those that store or transport natural gas and are major sources of HAP as defined in Section 112 of the Clean Air Act. To determine whether a facility, company, business, organization, etc., is regulated by this action, the applicability criteria in Section. 63.1270 of the natural gas transmission and storage facilities NESHAP should carefully be examined.